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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,908	07/31/2000	Jason A. Kay	3655-0160P	5021

2292 7590 03/18/2003

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EXAMINER

HOFFMANN, JOHN M

ART UNIT PAPER NUMBER

1731

DATE MAILED: 03/18/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/628,908		KAY ET AL.	
	Examiner		Art Unit	
	John Hoffmann		1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 12-16 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-15 and 19-23 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on 09 December 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

09/628,908

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03-03-03 has been entered.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Drawings

New corrected drawings are required in this application because the original figures are of such poor quality that it is impossible to tell what the features are. Applicant is advised to employ the services of a competent patent draftsman outside

the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 9-30-02 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of features 24a and 24b not being pivotable - figures 2-3. As can be seen from the original drawings, there is clearance between features 27 and 24a-24b; this clearance permits the mold sections to pivot around 25a and 25b. The present drawings do not permit pivoting. There is no support for an invention that does not permit pivoting.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7-8, 16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 7 requires that the intermal mold is "operable and collapsible between an open and extended configuration and a closed and collapsed configuration". There is

no support for this limitation. First it is noted that the molded is essentially operable only at the open configuration. There is no support for it being "operable" during the locations "between" the configurations.

It is noted that perhaps applicant is using a definition for "between" than does actually mean "intermediate" - rather that it refers to the end points i.e. the open, and the closed configuration. In which case there is no disclosure for it being "collapsible" when it is in the collapsed configuration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Doty 3293018.

Looking to the Doty figures (in particular 1 and 7): 13 and/or 17 is the support device. 15 is the heat source. 28 is the internal mold. The (unnumbered) hand-wheel on feature 14 is deemed to be the "insertion device" - it is deemed that this handwheel is a handle. Alternatively, the phrase "wherein said insertion device includes at least one of a sleeve and a handle" is unclear to its meaning; see the above 112 rejection which lists three different interpretations. The Office gives claims their broadest reasonable interpretation. The broadest of the three interpretations is "at least one of a

group comprising a sleeve and a handle"; this group is open to any other member including a handwheel - or what ever structure is used in Doty to insert the mold.

Feature 23 is the "exterior molding device": looking to the sentence spanning pages 11-12; it is deemed that this "means" can be a "paddle" and that Doty's 23 is a "paddle". AS to the method of use limitations that indicate as to how the exterior molding device function: the Doty apparatus can be used in such a manner. Although Doty uses the device to expand the preform outwardly, it could also be used to compress another preform inwardly.

Claim 5: see figure 2, feature 23.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, and 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Zauner 4441908 in view of Novini 5095204.

Zauner discloses the invention except for the optical sensing means.

See figures 8 and 10. 46 and/or 16 comprise the support device. 308 are the internal mold and 276 points to one of the outer mold. The paragraph spanning cols. 8-9 discloses that the operation is of the device in the same manner as Applicant claims

their invention. Various structure could be considered to be the "insertion device", for example structure 220. It is inherent that there is a heat source.

Optical sensing means are well known; Novini is evidence of this (col.3, lines 14-15). Novini also discloses various advantages throughout the "BACKGROUND ART" section; most notably from col. 2, line 63- col. 3, line 13. It would have been obvious to use a well-known optical sensing mean to check for defects in the Zauner apparatus - for any of the reasons set forth in Novini

Claim 1 is met for substantially the same reason claim 7 is met. As to the language that the insertion device is for inserting the mold "prior to the application of heat". Application of heat is a method of use step which does not have much (if any) bearing on the structure. It is clear that one can apply heat to the tube - well after the final device is made - even if Zauner does not disclose it.

Claim 2 is clearly met.

Claim 3: figure 2, feature 44 is the activation device that sets the internal mold as claimed - via the camming action of features 212 and 224 (fig. 8).

Claim 4 is clearly met.

Claim 6, feature 274 is the holding device.

Allowable Subject Matter

Claims 12-15 and 19-23 are allowed.

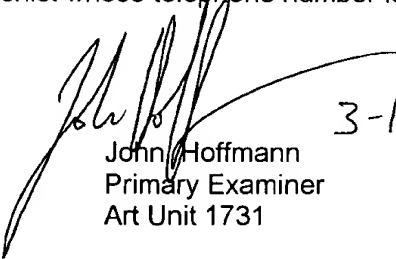
Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is 703-308-0469. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7115 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



John Hoffmann
Primary Examiner
Art Unit 1731

3-14-03

jmh
March 14, 2003